



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on August 2, 2004

Date of Meeting: April 5, 2004

The Mayor and Council of the city of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 W. Alameda, Tucson, Arizona, at 5:07 p.m., on Monday, April 5, 2004, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

James Keene	City Manager
Mike Letcher	Deputy City Manager
Michael House	City Attorney
Kathleen S. Detrick	City Clerk

2. INVOCATION AND THE PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Lee Norris May, Prince Chapel African Methodist Episcopal Church, after which the pledge of allegiance was presented by the entire assembly.

Presentations

- a. Mayor Walkup proclaimed April 4, 2004 through April 10, 2004, to be "Building Safety Week." David Mann, development services department, accepted the proclamation.
- b. Mayor Walkup proclaimed April 4, 2004 through April 11, 2004 to be "High Technology Week." Bob Rowe and Michael Cusanovich accepted the proclamation. The mayor noted that a number of conferences on high technology issues would begin on April 5, 2004.
- c. Mayor Walkup proclaimed April 5, 2004 to be "Outstanding Teen Citizen's Day". Iham Hobba accepted the proclamation.
- d. Mayor Walkup presented the "Outstanding Teen Citizen Awards". Dr. Noelia Vela, President of Pima County Community College downtown campus, assisted in handing out the awards.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 154, dated April 5, 2004, would be received into and made a part of the record. He also announced that this was the time for any member of the council to report on current events and asked if there were any reports.

- a. Council Member Scott reported on the ward four, finance and service review committee townhall. She thanked all who participated. Mayor Walkup and Vice Mayor Ronstadt attended the event. Council Member Scott said there had been a good exchange of ideas.
- b. Council Member Dunbar invited everyone to a tour of the Clearwater Recharge Site being held on April 24, 2004, from 8:00 a.m. until noon. She requested that anyone interested should call the ward three council office, 791-4711, to make a reservation and for further information.
- c. Council Member West welcomed guests from Kazakhstan who were hotel owners and managers.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 155, dated April 5, 2004, would be received into and made a part of the record. He also announced that this was the time scheduled for the city manager to report on current events and asked for that report.

- a. James Keene, city manager, announced that staff from the transportation department and Tucson police had teamed up with the Governor's Office of Highway Safety and local jurisdictions to recognize National Work Zone Awareness Week, which began on April 5. Staff held a press conference at the Interstate 10 and Interstate 19 interchange, where they

stressed the need to increase public awareness of the importance of driving safely in roadway construction zones. In Arizona, over the past two years, there have been nearly 10,000 work zone crashes. Mr. Keene reminded everyone that for those city employees and others who work in the streets, the road is their office. They risk injury everyday as they try to improve and keep the streets safe.

- b. Mr. Keene stated that the brochure introducing Broadway in Tucson's premier season was now available. There will be five shows, with the first show beginning in September.
- c. Mr. Keene announced that the Tucson Convention Center (TCC) had booked various acts which were on the "Richest Rock Star" list in the latest edition of *Rolling Stone Magazine*. In the year 2000, the TCC had a total of three concerts. This year they had already had seven, with a goal of reaching ten or twelve. Mr. Keene stated that there had been great improvements since Richard Singer, director, and Tommy Obermaier, deputy director, took over management of the Tucson Convention Center.

One concert at the TCC produced on average \$55,000 in total revenue directly to TCC, about \$9,000 in sales tax to the City of Tucson, and \$25,000 in sales tax to the Rio Nuevo District. Just 12 shows a year brought in about \$66,000 dollars in total revenue to the TCC and \$108,000 in direct sales tax to the City of Tucson.

- d. Mr. Keene stated that the local chapter of the American Business Women's Association presented three career achievement awards at their annual Women of the Year luncheon. The award recipients were Cele Peterson, Kathleen Robinson, assistant police chief, and Liz Rodriguez Miller, assistant city manager. The awards honored the success women obtain in their careers, demonstrated leadership abilities, and care and support for their communities.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 157, dated April 5, 2004, would be received into and made a part of the record. He asked the city clerk to read the liquor license agenda.

(b) New License(s)

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- (1) PETER PIPER PIZZA
9545 E. Old Spanish Trail
Applicant: Donald R. Baxla
City #012-04, located in Ward 2
Series 12
Action must be taken by: April 17, 2004
Public Opinion: Protest Filed

Staff Recommendation

Police: In Compliance
DSD: In Compliance
Bus. License: In Compliance

- (2) CHARLIE'S
3412 N. Dodge Blvd.
Applicant: Garrett J. Raetzman
City #014-04, located in Ward 2
Series 12

Staff Recommendation

Police: In Compliance
DSD: In Compliance
Bus. License: In Compliance

* See page 5

(c)

Special Event(s)

- | | | |
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| (1) | TUCSON MUSEUM OF ART
140 N. Main Avenue
Applicant: Charlie E. Bodden
City #T017-04, located in Ward 1
Date of Event: May 7, 2004 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (2) | TUCSON ARTS DISTRICT
PARTNERSHIP
140 N. Main Avenue
Applicant: Vera L.Y. Uyehara
City #T018-04, located in Ward 1
Date of Event: April 16, 2004 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (3) | SOUTHERN ARIZONA HOME
BUILDERS ASSOCIATION
3800 E. River Road
Applicant: Tony Mellor
City #T019-04, located in Ward 2
Date of Event: April 22, 2004 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (4) | CODAC BEHAVIORAL HEALTH
SERVICES, INC.
4644 E. Ft. Lowell Road
Applicant: Diana T. Whitman
City #T022-04, located in Ward 2
Date of Event: May 1, 2004 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| (5) | COMITÉ DE FESTIVIDADES MEXICANAS
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City #T025-04, located in Ward 1
Date of Event: April 11, 2004 | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Parks & Rec.: In Compliance |
| * | (6) | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| | (7) | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |

*See Page 6

Kathleen S. Detrick, city clerk, advised that the applications for 5b(1), Peter Piper Pizza and 5c(6), the Tucson Botanical Gardens, had received protests and should be considered separately.

It was moved by Council Member Dunbar, seconded by Council Member Ibarra, and carried by a voice vote of 7 to 0, that liquor license applications 5b(2), Charlie's; 5c(1), Tucson Museum of Art; 5c(2) Tucson Arts District Partnership; 5c(3), Southern Arizona Home Builders Association; 5c(4), Codac Behavioral Health Services, Inc.; 5c(5) Comité De Festividades Mexicanas; and 5c(7) Arizona League of Conservation Voters, be forwarded to the state department of liquor licenses and control with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS – (b) (1)

(b) New License(s)

1) PETER PIPER PIZZA 9545 E. Old Spanish Trail Applicant: Donald R. Baxla City #012-04, located in Ward 2 Series 12 Action must be taken by: April 17, 2004 Public Opinion: Protest Filed	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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Mayor Walkup asked the council's pleasure.

Council Member West asked the applicant, Donald Baxla, owner of the Peter Piper Pizza franchise on Old Spanish Trail, to come forward. She asked if his other Peter Piper Pizza restaurants served liquor. Mr. Baxla answered they serve beer and soft drinks. Council Member West clarified the fact that Mr. Baxla requested a series 12, restaurant license and that he would like to serve beer at the Old Spanish Trail location.

Council Member West asked if Mr. Baxla had received copies of any of the protest letters filed against his request for a liquor license. He said he had copies of two letters. Council Member West asked if any protesters were in the audience. There were none. She then summarized the concerns raised in the protest letters stating that this restaurant was located near their properties and they felt children would be present in his pizza restaurant and they would be exposed to the liquor. Council Member West asked if Mr. Baxla would like to address these concerns.

Mr. Baxla stated that the requirements for a series 12 license were that the sales should be divided up so that 40 percent was liquor and 60 percent was food. His restaurants were under 5 percent liquor. Most of his locations sold between 3 and 4 percent liquor. Mr. Baxla said beer was an add-on that was needed with pizza restaurants. Mr. Baxla added that he believed his restaurants practice the safest liquor control policies in Tucson. They are very careful and control every mug of beer that is sold. He said they were very proactive.

Council Member West asked if any of his restaurants have had liquor violations. Mr. Baxla said they have never had any violations in the Tucson locations.

It was moved by Council Member West, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, that liquor license 5b(1), Peter Piper Pizza be forwarded to the state liquor board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS – (c) (6)

(c) Special Event

(6)	TUCSON BOTANICAL GARDENS	<u>Staff Recommendation</u>
	2150 N. Alvernon Way	
	Applicant: Kimberly A. Etherington	Police: In Compliance
	City #T034-04, located in Ward 6	DSD: In Compliance
	Date of Event: April 15, 2004	
	Public Opinion: Protest Filed	

Mayor Walkup asked the council's pleasure.

Vice Mayor Ronstadt stated there was one letter of protest from Josephine Morgan. He asked if she was present. She was not. Vice Mayor Ronstadt said the Botanical Gardens had a great track record with special events, used primarily for fund raising. He did not see why this would be different from any of their other events.

It was moved by Vice Mayor Ronstadt, seconded by Council Member Leal, and carried by a voice vote of 7 to 0, that liquor license 5c(6), Tucson Botanical Gardens, be forwarded to the state liquor board with a recommendation for approval.

6. CONSENT AGENDA – ITEMS A THROUGH C

Mayor Walkup announced that the reports and recommendations from the city manager on the consent agenda items would be received into and made a part of the record. He asked the city clerk to read the consent agenda items.

A. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR FISCAL YEAR 2004 FUNDING OF THE TUCSON-PIMA COUNTY HISTORICAL COMMISSION

- (1) Report from City Manager APRIL5-04-153 CITY-WIDE AND OUTSIDE THE CITY
- (2) Resolution No. 19803 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement with Pima County for Fiscal Year 2004 funding of the Tucson-Pima County Historical Commission; and declaring an emergency.

B. REAL PROPERTY: CONVEYANCE OF SURPLUS CITY PROPERTY IN THE WEST OCHOA NEIGHBORHOOD TO CHICANOS POR LA CAUSA

- (1) Report from City Manager APRIL5-04-161 W5
- (2) Ordinance No. 9945 relating to real property; vacating and declaring certain city-owned properties in the West Ochoa Neighborhood, Tucson, Arizona, to be surplus, and authorizing the conveyance thereof to Chicanos Por La Causa; and declaring an emergency.

C. SURPLUS PROPERTY: DONATION OF OFFICE FURNITURE AND EQUIPMENT TO FAMILY ADVOCACY, RESOURCE AND WELLNESS CENTERS, INC.

(1) Report from City Manager APRIL5-04-162 CITY-WIDE

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Ronstadt, seconded by Council Member West, that consent agenda items A through C be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, Leal, and Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Absent/Excused: None

Consent agenda items A through C were declared passed and adopted by a roll call vote of 7 to 0.

RECESS: 5:35 p.m.

Mayor Walkup announced that the council would stand at recess and reconvene at 6:00 p.m.

RECONVENE: 6:00 p.m.

Mayor Walkup called the meeting to order and upon roll call, those present and absent were:

Present:

Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

José J. Ibarra	Council Member Ward 1
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7. CALL TO THE AUDIENCE

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations. He asked if anyone wished to address the council and if so, to state their name and address for the record.

- a. Nicole Gonzales, addressed the mayor and council with ongoing concerns related to La Reforma housing and remediation efforts. She requested the mayor and council's assistance in taking a leadership role regarding La Reforma housing.
- b. Essence Arce, echoed Ms. Gonzales' comments. She said that one of the major issues, and the most important, was mold. She claimed community services downplayed the seriousness of mold contamination in their homes and their belongings. In addition, HVAC (heating, ventilation and air conditioning) professionals have warned the residents the only way to avoid dangerous health effects, such as brain damage, is to replace mold infested air conditioning systems, a basic, necessary precaution city staff is avoiding.
- c. Bill Katzel, addressed the mayor and council and outlined steps he has taken to resolve problems he faced at the Mayor and Council Subcommittee on Neighborhoods.
- d. Jessica Courtney, thanked the mayor and council, the Metropolitan Education Commission, and Pima County Community College for the awards she was presented with earlier. She gave special thanks to Council Member Scott, Michael Lyman, Project Manager Atturbury Bird and Animal Sanctuary Youth Employment and Enrichment Program, and the department of neighborhood resources for promoting and maintaining the Youth Employment and Enrichment Program.
- e. Murph Lyman, said it was no secret that the city is in a financial crisis and will be for some time. She made a plea to continue and save the funding for the Youth Employment Program for the neighborhoods.
- f. Cynthia Mills, said she was concerned about the motorized scooters. She said the scooters are ridden by young children who want to see how fast they can go. Ms. Mills said in her neighborhood the children are not paying attention, they go fast, and they ride on the sidewalk. She said the children need some guidelines, in addition to wearing a helmet.
- g. Jerry D'Paco, addressed the mayor and council with concerns over potential development in his neighborhood and urged the mayor and council to revisit the 2000 Stone Avenue Corridor Plan.
- h. Thomas Byrne, said Proposition 100 was meant to allocate funds to repair the roads. Byrne said the lines on the road have faded so much you cannot see them and this is a safety hazard. He asked the mayor and council to repaint the lines. He also suggested that next time the city vote yes on Proposition 100.

8. PUBLIC HEARING: (Co9-82-80) CHEYENNE INVESTMENT – NEBRASKA STRAVENUE, I-1 ZONING, CHANGE OF CONDITIONS

Mayor Walkup announced that city manager's communication number 159, dated April 5, 2004, would be received into and made a part of the record.

Kathleen S. Detrick, city clerk, said this item was continued from the meeting of March 22, 2004. The applicant submitted a written request to continue this item. City staff also recommended continuing the item to April 19, 2004.

It was moved by Council Member Leal, seconded by Council Member West, and carried by a voice vote of 6 to 0, (Council Member Ibarra absent/excused), to continue this public hearing to the meeting of April 19, 2004.

9. PUBLIC HEARING: (C9-98-38) STRUBLE II – AJO WAY, R-1 TO C-2 ZONING, REQUEST FOR TIME EXTENSION AND ORDINANCE ADOPTION

Mayor Walkup announced that city manager's communication number 163, dated April 5, 2004, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing with respect to a time extension for the completion of rezoning conditions for property located on the southeast corner of Pandora Avenue and Ajo Way. The city manager recommended approval of the time extension request.

Mayor Walkup asked if the applicant, Jacob F. Struble, was present. He was.

Jacob Struble, explained that the parcel he was requesting to be rezoned was a 60-foot parcel on the northwest corner of Ajo and Pandora. He owns the rest of that block. The rest of the block had been rezoned prior to Council Member Leal becoming a member of the council. Mr. Struble requested that this parcel be rezoned the same as the rest of the block.

Mayor Walkup stated that the public hearing was scheduled to last for no more than one hour. Speakers were limited to five-minute presentations. Mayor Walkup asked if there was anyone in the audience who wished to be heard on this item. There was no one.

It was moved by Vice Mayor Ronstadt, seconded by Council Member West, and carried by a voice vote of 6 to 0, to close the public hearing (Council Member Ibarra absent/excused).

Mayor Walkup asked the city clerk to read ordinance 9946 by number and title only.

Ordinance No. 9946

Relating to Zoning; amending Ordinance No. 9222 to amend zoning conditions and extend the period of compliance from April 19, 2004, to April 19, 2009, for the area located in the vicinity of the southeast corner of Ajo Way and Pandora Avenue in Case C9-98-38, Struble II – Ajo Way, R-1 to C-2; and declaring an emergency.

It was moved by Council Member Leal, seconded by Vice Mayor Ronstadt, that ordinance 9946 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members West, Dunbar, Scott, Leal and Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ibarra

Ordinance 9946 was declared passed and adopted by a roll call vote of 6 to 0.

10. ZONING: (C9-03-19) JACOME – VALENCIA ROAD AND ALVERNON WAY, I-1 TO C-1, CITY MANAGER’S REPORT (CONTINUED FROM MEETING OF MARCH 22, 2004)

Mayor Walkup announced that city manager’s communication number 158, dated April 5, 2004, would be received into and made a part of the record. He announced that this was a request to rezone property located on the southwest corner of Valencia Road and Alvernon Way. The zoning examiner and city manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant, Carl Winters, was present and asked if he was aware of and agreeable to the proposed requirements.

Mr. Winters, stated he was aware of and agreeable to the proposed requirements.

Mayor Walkup asked if there was any discussion.

Council Member Leal said in the third paragraph on 10 C it stated that there were two billboards currently located on the rezoning site, and condition 19 had been added to clarify that the removal of the billboards was required. In past council actions pertaining to identical situations, the requirement was time specific, either at the time the ordinance was adopted or before the issuance of building permits. Council Member Leal asked if either of these time requirements was satisfactory to Mr. Winters.

Mr. Winters said that yes he was agreeable to both.

Council Member Leal said he would amend the recommendation to stipulate that removal of the billboard would occur at the time of ordinance adoption and approve the request as recommended by the zoning examiner with any additional conditions the mayor and council deem necessary and appropriate.

Michael House, city attorney, recommended that the wording be added to condition 19 read prior to the time of ordinance adoption.

Council Member Leal agreed.

It was moved by Council Member Leal, seconded by Council Member West, to approve the request for rezoning in case C9-03-19 as recommended by the city manager with an amendment to condition 19, which would now include "removal of the billboard will occur prior to the time of ordinance adoption."

Mayor Walkup asked if there were any further questions. There were none.

Mayor Walkup called for a voice vote.

The motion carried 6 to 0, (Council Member Ibarra absent/excused).

11. APPEAL: HISTORIC PRESERVATION ZONE CASE (HPZ-03-77) FIRST CHRISTIAN CHURCH, 740 E. SPEEDWAY BOULEVARD - NEW COLUMBARIUM WALL

Mayor Walkup announced that city manager's communication number 152, dated April 5, 2004, would be received into and made a part of the record. He also announced that this was an appeal of conditions 1 and 2 of the decision made January 12, 2004, by the development services department. The appellant was Donald Smith, on behalf of the property owner, First Christian Church. Mayor Walkup asked the city clerk to read the order for the appeal.

Kathleen S. Detrick, city clerk, said the order for the appeal was as follows: first the appellant on behalf of the property owners; then the response from city staff, if any; third testimony from any member of the public as permitted by the mayor and council; next rebuttal as permitted by the mayor and council; the mayor and council may then direct any questions to the parties appearing before them or any other persons who may have relevant information in order to establish the reasons for their decision; and after the presentation, the mayor and council may discuss the case or act on it. Ms. Detrick announced that first the city attorney would make a brief presentation.

Michael House, city attorney, said this was an appeal of two conditions imposed by the zoning administrator in approving the application. To resolve the appeal the mayor and council would make a discretionary decision on whether the conditions were appropriate to implement the historic design criteria established in the land use code. The mayor and council may uphold the zoning administrator on one or both conditions, may reverse on one or both conditions, or may modify either of the conditions. Mr. House explained that this appeal was decided based on the positions and materials presented by the city manager's communication, by the parties and their presentations, and by responses to questions from the mayor and council during the hearing. The mayor and council also may request information during the hearing from representatives from the Tucson-Pima County Historical Commission Plans Review Committee and the Development Review Board if present or from members of the audience who might have particular relevant information. It was not necessary for the mayor and council to hear anyone other than the parties to the case.

Mr. House said this matter was a quasi-judicial proceeding and the mayor and council were advised not to have ex-parte discussions on the merits of this appeal prior to this hearing. If any member of the council had information bearing on the merits of this appeal from prior contacts, this information should be disclosed so that all parties were aware of the information and have the opportunity to rebut any information that might be the basis for the mayor and council's decision. Prior information should be disclosed prior to the hearing or at the time it becomes apparent that the information might have a bearing on the case, provided the parties still have a chance to comment on the additional information.

Mr. House corrected his prior statements to say that the decision had not been made by the zoning administrator but instead by the development services director.

Kathleen S. Detrick, city clerk announced that next development services would make a brief presentation.

Ernie Duarte, development services director, said this was an appeal to his decision in the historic preservation case number HPZ-03-77. The applicant was Donald Smith on behalf of First Christian Church, which was located on the southwest corner of Speedway and Euclid. First Christian Church proposed to build a new columbarium wall at its existing facility. The wall was proposed to be 51 feet long and 15 feet high. Development Services had approved this case on the conditions that Mr. House mentioned. One of those conditions was that the height of the wall be reduced from 15 feet to 14 feet 4 inches. The other condition was that the wall be recessed 21 inches from the face of the existing church wall.

Mr. Duarte said the purpose for these conditions was to distinguish the new improvements from the existing structures, which was a common practice in historic preservation and redevelopment. Mr. Duarte stated that because First Christian Church was within a historic district, certain historic reviews were required in addition to the customary permit review process. Those reviews included reviews by the Development Review Board (DRB), Tucson-Pima County Historical Commission, and the West University Historic Advisory Board. Both the DRB and the Historical Commission had reviewed this case and supported the conditions associated with the approval.

Reverend Robin Hoover, the appellant and pastor of First Christian Church, said he was appealing the split decision of the Tucson-Pima County Historical Commission and the Development Review Board because he was convinced they had met the burden of the land use codes and because he believed constructing the proposed columbarium wall with the restrictions proposed by the Historical Commission would be a burden on the congregation.

Rev. Hoover said many of the council members and the mayor had been present in the church's courtyard and knew how cramped it was. The height of the wall was needed to abate the sound from the road. Rev. Hoover said the church would have made this improvement 30 years ago, but were unable to do so because of the finances. The proposed columbarium wall was thicker than the current wall. The 8 inches in height and 21 inches in depth was much needed space. Rev. Hoover said the document was incorrect in stating that the depth was 21 feet.

Rev. Hoover added that neither the Historical Commission nor the Development Review Board has met the statutory burden of the Arizona law, known as the Arizona Religious Freedom Restoration Act, or federal law known as the Religious Land Use and Institutionalized Persons Act, by providing a compelling reason such as public safety for denying their request as a religious entity. He said they did not defer to the fact that this was a request by a religious congregation and not a residence or a place of business. Rev. Hoover said he therefore requested the mayor and council permission to build the columbarium wall as submitted. He said Mr. Smith, the architect, was available to answer any questions.

Mayor Walkup asked if anyone in the public wanted to give testimony on this subject.

There was no one.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said that in spite of the fact that no one wished to give testimony, he requested that someone explain the difference between what the appellant proposed and what conditions were imposed by development services in simple terms for the benefit of the mayor and council and the audience.

Donald Smith, architect for the project, said the proposal was to place the wall by the chapel. The condition imposed would be to move the wall back 21 inches to create a detail and distinguish the new wall from the lead wall. Mr. Smith said the request for the height reduction was eight inches below the top of the lead wall. He added that the church would like to have the new wall match the size of the lead wall of the chapel. The boards approved the proposal with the conditions that the wall be moved back 21 inches and that the height be dropped eight inches.

Council Member Leal asked what the boards wanted to achieve by moving back the wall and dropping the height.

Mr. Smith explained that one of the concepts for additions to historic buildings was to make the addition stand out or show that was separate and a change from the original building. He said the church building had been built over a 50-year period. It had been an ongoing project with additions being built over time. Mr. Smith said the new wall was being built at a natural break from the lead wall and that the conditions imposed were the wrong approach for this particular building.

Council Member Leal stated his sense of the issue of are you helping the preservation of buildings by having the additions be conspicuously different, was such an arbitrary rule of thumb. Half the community thinks additions should blend in while the other half believes it should be conspicuously different. He said it was an arbitrary aesthetic sensibility.

Vice Mayor Ronstadt said there was someone from the West University Historic Advisory Board who wanted to speak.

Val Little, said she was the chairperson of the West University Historic Zone Advisory Board. Ms. Little said when the applicant appeared before the board they did not have a quorum. The three members of the board who were present at the meeting had a discussion with the applicant and they made recommendations.

Ms. Little said that two members of the board sat in on the plans review of the Tucson-Pima County Historic Commission and the applicant. This was where the compromises were made. She felt they all left having agreed that these conditions would work for the church and the community.

Council Member West asked what compromise was made at the meeting.

Ms. Little replied that the applicant originally wanted a wall as far out as they could, that eliminated the fan walls, and that would be as high as the current structure. She said the board felt the offset was important and it would still give them the columbarium they wanted and effectively provide noise abatement. Maintaining the fan wall was important to the crenellation of the building along Speedway rather than a straight 15-foot wall all the way across.

Mayor Walkup asked if there were further questions.

Council Member West asked Mr. Duarte why it mattered if the new wall was delineated from the old.

Mr. Duarte said it was a guiding principle of historic preservation, that new development blend in with the existing structure while still being articulated or distinguished from the existing historic structure.

Council Member West said in reading through the materials, she noted that on page two of three of the city manager's communication it states that the church representative offered to recess the wall 21 inches during the meeting with the Tucson-Pima County Historical Commission. She asked Mr. Smith if this was accurate.

Mr. Smith said that during the meeting it was obvious that the Commission would turn down the church's request. He said at the time they chose to compromise and then take the decision back to the congregation. It seemed like the best approach to keep the process moving. He added that they knew if they compromised and the Commission approved and denied the request, it could be appealed.

Mr. Smith added that the issue is the space inside, which the West University Historic Advisory Board said they were not concerned about. If the wall was offset, it would reduce the walkway in front of the columbarium from 11 feet to 9 feet. That two feet was important in terms of width and movement through the area.

Vice Mayor Ronstadt asked for clarification of the point that Mr. Smith made regarding an appeal.

Mr. Smith said it was fairly obvious that the request would be turned down. The Historical Commission asked if they would be willing to consider a compromise. Mr. Smith said they were not sure what to do. He said they decided on the spur of the moment to propose a compromise that the Historical Commission was looking for. Therefore, they offered the compromise, which was voted on and approved. Mr. Smith said they then went back to the congregation for their input. He said they were at the meeting as representatives at the congregation. Their only choices were to offer the compromise or walk away.

Council Member West said that in a letter from Reverend Hoover to the Tucson-Pima County Historical Commission he wrote that the membership of the First Christian Church wishes that the wall be closer to Speedway Boulevard so as to have a comfortable space between the normal walking path between the enclosed structures at either end of the proposed wall and the future wall housing the remains of loved ones. This ethical space could not be created with an increased set back. Council Member West asked Mr. Smith if this is what he had been referring to.

Mr. Smith said that yes this was the space that he was describing. Without the set back the space would be 11 feet, with it the space would be 9 feet 3 inches. He added that there is a walkway from the narthex into the chapel and the parlor. This area has the most active movement through the patios. Mr. Smith said to provide enough room for the movement through, 9 feet 3 inches was tight.

Vice Mayor Ronstadt said he had spoken to a couple of colleagues earlier and that this issue seemed like nitpicking in a way. He recognized that there were historic issues in terms of what's the standard practice for the redevelopment of facilities in a historic district. He said that Council Member Leal was well-versed on historic issues in the city and that Mr. Leal believed this is a very subjective issue. Vice Mayor Ronstadt said that based on this notion of subjectivity, he believed the appropriate course of action would be to allow the church to develop the property with no recession and a wall height of 15 feet.

It was moved by Vice Mayor Ronstadt, seconded by Council Member Leal, and carried by a voice vote of 6 to 0, (Council Member Ibarra absent/excused) to reverse the decision made by the development services department director and allow the church to develop the property with no recession and to allow the height of the wall to be 15 feet.

12. AGREEMENT: WITH OLD PUEBLO TROLLEY TO COVER INSURANCE COSTS FOR THE HERITAGE TRANSIT VEHICLE OPERATIONS

Mayor Walkup announced that city manager's communication number 160, dated April 5, 2004, would be received into and made a part of the record. He asked the city clerk to read resolution 19804 by number and title only.

Resolution No. 19804

Relating to Transportation; authorizing and approving an agreement with Old Pueblo Trolley for the City of Tucson to provide self-insured liability coverage for the Old Pueblo Trolley public transit vehicle operations; and declaring an emergency

It was moved by Vice Mayor Ronstadt, seconded by Council Member Scott, that resolution 19804 be passed and adopted.

Mayor Walkup asked if there was any discussion. There was none.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members West, Dunbar, Scott, Leal and Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ibarra

Resolution 19804 was declared passed and adopted by a roll call vote of 6 to 0.

13. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that city manager's communication number 156, dated April 5, 2004, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member West, seconded by Council Member Scott, and carried by a voice vote of 6 to 0, (Council Member Ibarra absent/excused), to appoint Eugene Caywood to the Citizens' Transportation Advisory Committee and to reappoint George Richard as a neighborhood representative to the Landscape Advisory Committee.

Council Member Leal announced his personal appointment of Paul Rubin to the Redistricting Committee 2004.

14. ADJOURNMENT: 6:53 p.m.

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on Monday, April 12, 2004, at 5:00 p.m., in the Copper Ballroom, at the Tucson Convention Center, 260 S. Church Avenue, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the city of Tucson, Arizona, held on the 5th day of April, 2004, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

MANAGEMENT ASSISTANT

KSD:DD:rem
pr agnst tp:lr